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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,485	07/31/2000.	Peter V. Coveney	57.0265USPCT	1357

7590

05/06/2003

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EXAMINER

TUCKER, PHILIP C

ART UNIT

PAPER NUMBER

1712

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

581485

Applicant(s)

COVENEY

Examiner

P. TUCKER

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-6, 9, 10 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-5, 9, 10 is/are rejected.
- ☒ Claim(s) 6 is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 13
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because of the following informalities: Applicant has included data in an appendix after the end of the specification. Since it is believed that such should be a part of the specification, applicant should amend the application to incorporate the subject matter of the appendix as a part of the specification.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

3. Claims 1-4, 9, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyer et al (4307980)..

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Meyer teaches a method of stabilizing formations which comprise clay, using a composition of water glass and polyisocyanates, wherein such composition comprises polyols which react with the polyisocyanates to form polymers (see example 3). Such composition would clearly enter into the clay galleries.

4. Claims 1, 2, 5, 9, 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hewgill et al (4787453).

Hewgill teaches a method of stabilizing a subterranean formation which comprises clay using a composition containing water and an organosilicon compound, wherein the water and organosilicon compound react to form silanols which interact with the clay (column 4, lines 3-50).

5. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Applicants arguments have been considered but are not deemed fully persuasive. Applicants amendment distinguishes over Hudson and Kubena Jr.

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Applicant has attempted to distinguish the references from the present invention by arguing that the references fail to teach that intercalation of the reactants into the galleries of the clay occurs. Clearly since the compositions are liquid in form, then the compositions must enter into the galleries of the clay as in the present invention. Although the reaction takes place on the surface of the formation clays, the reactions must thus also occur in the galleries thereof. The language of applicants does not state that this must exclusively occur, and applicants have not given any experimental evidence that the compositions of the references do not react generally in the galleries. Furthermore, in order for the clay to be stabilized by the compositions, the reactions must take place in the presence of the clays.

With respect to Meyer, further examination of this reference indicates that a polymerization reaction does occur.

The figure supplied on page 5 of applicants amendment bled through, thus applicants full arguments on page 4 were not able to be read.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tucker whose telephone number is (703) 308-0529. The examiner's normal working hours are 7:30am-4:00pm, Monday-Friday. If necessary SPE Robert Dawson may be contacted at 703-308-2340. For inquiries of a general nature call the receptionist at 703-308-0651. The group FAX no. is 703-872-9310. The **after final** fax no. is 703-872-9311.

PCT-2804  
May 5, 2003



PHILIP C. TUCKER  
ART UNIT 1712.